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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,514	01/15/2004	William Orman Wollgast	03005	5796

39047 7590 10/05/2004

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HOUSTON, TX 77068

EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,514

Applicant(s)

WOLLGAST ET AL.

Examiner

Nathan S Mammen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it uses the words "this present invention" and "this invention". Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1: The phrase "or other work-type vehicle which allows such attachments" renders the claim indefinite, since it is impossible to ascertain the exact scope of the claim's limitations. In addition, the preamble states "skid steer loader" and "backhoe", but the body of the claim only refers to "a vehicle".

Regarding claims 7 and 13: In claims 1 and 8, from which claims 7 and 13 depend, respectively, Applicant sets forth "a curved front surface." In claims 7 and 13, Applicant states

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that the “curved front surface is a straight non-curved surface.” Either it is curved or it is not – it cannot be both.

Regarding claim 8: The claim recites “a skidsteer loader” and then proceeds to refer to a “vehicle”. It is unclear whether the attachment is to be secured to a specific vehicle, i.e., a skid steer, or to other vehicles.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 7, 8, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,809,449 to Solaja.

The Solaja ‘449 patent discloses an attachment for securing to a skid steer loader (see col. 5, line 23). The attachment comprises a connecting frame (34, 38, 40) allowing for connection to the skid steer, a base (32) connected perpendicular to the connecting frame, a curved front surface (16) connected to the end of the base opposite the connecting frame and vertically curved, and a support structure (30, 36) connected between the connecting frame and the base to provide strength to the attachment. The connecting frame has two supporting cutouts (46) at the bottom and a clamp mechanism (48) at the top.

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Regarding claims 2-3, 7, 10, 13: The curved front surface has a concave shape and appears to have a radius of at least 2 feet. The front surface includes a straight, non-curved surface (20) at least 2 feet in length

7. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,819,444 to Desmarais.

The Desmarais '444 patent discloses an attachment for securing to a vehicle. The attachment comprises a connecting frame (50), a base (6), a curved front surface (2, 4), and a support structure (42) connected between the connecting frame and the base. The curved front surface is movable to a plurality of shapes so that it can create a concave shape (Fig. 5), convex shape, an S-shape (see, e.g., Fig. 10), or a straight non-curved shape. The attachment includes supporting cutouts (48) and a clamp mechanism (18).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,809,449 to Solaja.

The Solaja '449 patent discloses the claimed apparatus, as stated in paragraph 6 above. The method of using the structure – including using the apparatus to smooth the walls of a swimming pool – would have been obvious to one having ordinary skill in the art at the time the invention was made.

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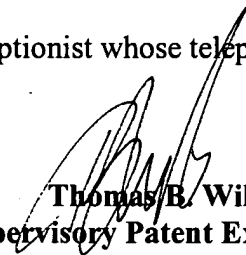
***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

**NSM**  
**9/28/04**

**Nathan S. Mammen**